



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
DARRELL V. MCGRAW, JR.
CONSUMER PROTECTION DIVISION
1-800-368-8808 or 304-558-8986

Press Release

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**ATTORNEY GENERAL DARRELL MCGRAW
OBTAINS INJUNCTION AND PREJUDGMENT ATTACHMENT
AGAINST POOL COMPANY**

At a hearing in Fairmont on March 30, 2005, Attorney General Darrell McGraw obtained an injunction and prejudgment attachment against Donna and Carmine (a/k/a Tony) Diulas, who do business together as CMS, CMS Pools, and CMS Construction. The Attorney General sued the Diulases in August, 2004 for selling above-ground swimming pools throughout West Virginia using a bait and switch sales scheme that advertised an above-ground pool, including deck, ladder and fencing, for about \$699.00 in the local newspaper of an area. The Attorney General's complaint included allegations that CMS did not give consumers the legally required notice of right to cancel that applies to home solicitation sales, and did not honor its warranties.

The Attorney General obtained a preliminary injunction against the Diuluses in October 2004 that prohibited them from selling or advertising the sale of swimming pools or related services in West Virginia. Under the terms of the October 2004 order, the Diuluses were allowed to continue operating CMS Construction, a business name under which they sold siding and windows.

On March 23, 2005, the Attorney General filed a motion asking the Marion County Circuit Court to require the Diuluses to post a bond or, in the alternative, to broaden the scope of the preliminary injunction, citing as grounds for his motion the Diuluses' failure to comply with most of the State's discovery requests and for being untruthful in their responses to requests they did answer. The Attorney General also argued that the bond was necessary because the Diuluses reside in Pennsylvania and have no ties to West Virginia.

At the March 30, 2005 hearing, the court ordered that the Diuluses are prohibited from conducting or advertising any business in West Virginia. The court also granted the State a prejudgment attachment against the Diuluses' real property in Clairton, Pennsylvania. "This order shows out-of-state businesses that their refusal to comply with West Virginia laws will not be tolerated and that the courts of this state will not hesitate to take action to protect its citizens," stated McGraw.

Persons who would like to file a complaint are encouraged to call Attorney General McGraw's Consumer Protection Division at 1-800-368-8808 or 304-558-8986. Consumers may also write to Post Office Box 1789, Charleston, WV 25326-1789.

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